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HUMAN RIGHTS COMMITTEE

Sixty-fourth session

SUMMARY RECORD OF THE 1700th MEETING

Held at the Palais des Nations, Geneva,
on Monday, 19 October 1998, at 10.30 a.m.

Chairperson: Ms. CHANET

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GE.98-18799 (E)

The meeting was called to order at 10.50 a.m.

OPENING OF THE SESSION

1. The CHAIRPERSON declared open the sixty-fourth session of the Human Rights Committee. She welcomed Mr. Wieruszewski (Poland) as a newly elected member of the Committee and invited him to make the solemn declaration contained in article 38 of the Covenant.

2. Mr. WIERUSZEWSKI said that he undertook to perform his functions impartially and conscientiously.

STATEMENT BY THE DEPUTY HIGH COMMISSIONER FOR HUMAN RIGHTS

3. Mr. TER HORST (Deputy High Commissioner for Human Rights), speaking on behalf the High Commissioner for Human Rights, who was currently absent from Geneva, said that the High Commissioner looked forward to participating in one of the Committee's meetings upon her return.

4. China had signed the Covenant two weeks previously, thereby taking an important step towards full integration into the international human rights system. China's accession to the Covenant would add momentum to the process of dialogue and cooperation with the United Nations in the sphere of human rights, and the Chinese authorities would almost certainly ratify the Covenant in the very near future.

5. In the following weeks, the General Assembly would embark on the mid-term assessment of the Vienna Declaration and Programme of Action, in the context of which it would discuss, inter alia, the functions of the Human Rights Committee. The role which treaty bodies in general could play at the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance, due to be held in 2001, should also be highlighted. The 21 years of experience accumulated by the Human Rights Committee would be most useful in the preparations for the Conference.

6. At the closing meeting of the sixty-third session of the Committee on 31 July 1998, the High Commissioner for Human Rights had expressed her commitment to ensuring that the Committee would be able to discharge its responsibilities under the best possible conditions. The pressing need for more human resources was obvious to everybody, and the issue would be discussed by the Third Committee at the fifty-third session of the General Assembly. In that connection, the High Commissioner endorsed the view put forward at the tenth Meeting of Chairpersons of Human Rights Treaty Bodies in September to the effect that the growing number of ratifications of international instruments should be met by increased resources. Moreover, the High Commissioner was fully aware of the backlog in the processing of State party reports, communications and correspondence, and in that context the Office of the High Commissioner was expanding its Website and database facilities in order to facilitate the work of the treaty bodies. So far as the Committee was concerned, a database with full research capability for the Optional Protocol procedure should be operational in the near future.

7. The High Commissioner commended the Human Rights Committee for reviewing its methods of work and amending its rules of procedure to allow, inter alia, the joint examination of the admissibility and merits of communications. The High Commissioner also endorsed the view put forward at the Meeting of Chairpersons that State party reports should focus on a limited range of issues, thereby reducing the reporting burden and making the system more effective. In addition, the tenth Meeting of Chairpersons had discussed a global plan of action to strengthen the implementation of the principal international human rights treaties. The purpose of the plan was to ensure that the work of the treaty bodies was more closely linked and to enhance the capacity of the Office of the High Commissioner to service the Geneva-based treaty bodies.

8. The High Commissioner would brief the Committee in person regarding other measures which she planned to take in order to help the Committee carry out its mandate, bearing in mind the overall rationalization process of the human rights treaty system and the organization-wide reforms currently under way. The Committee should notice the benefits of improved planning at the current session.

9. The CHAIRPERSON thanked the Deputy High Commissioner and said that the increase in the number of staff servicing the Committee had greatly facilitated the preparatory work for the current session. The Committee had also gained a clearer idea of what the future held in store.

ADOPTION OF THE AGENDA (item 1 of the provisional agenda) (CCPR/C/135)

10. The agenda was adopted.

ORGANIZATION OF WORK AND OTHER MATTERS (agenda item 2)

11. The CHAIRPERSON invited the Committee to adopt the programme of work contained in a conference room paper which had been circulated in English only. The draft list of issues to be taken up in connection with State party reports should be adopted before the consideration of the Vice-Chairperson's report on the tenth Meeting of Chairpersons of Human Rights Treaty Bodies so as not to delay sending the lists to the States parties concerned. The Committee would not have to deal with any new draft decisions on communications at the current session because the pre-sessional working group had been unable to examine any communications owing to the lack of a quorum. The Committee would therefore consider the drafts which had already been referred to it at the sixty-third session. If she heard no objection, she would take it tha. the Committee wished to adopt the programme of work.

12. It was so decided.

13. Mr. EL SHAFEI (Chairman and Rapporteur of the pre-sessional Working Group) said that the Working Group, comprising Mr. Bhagwati, Lord Colville, Mr. Prado Vallejo and himself, had held eight meetings between 12 and 16 October 1998. It had considered and adopted draft lists of issues on the initial report of Armenia, the third periodic reports of Austria, Belgium, Iceland and the Libyan Arab Jamahiriya, and the fourth periodic report of Japan.

14. Representatives of Amnesty International and the International Federation of Leagues of Human Rights had briefed the Working Group on the human rights situation in all six States under review. A total of 11 representatives from Japanese non-governmental organizations had briefed the Working Group on different aspects of the human rights situation in Japan, and 32 representatives of Japanese non-governmental organizations had attended the meetings. Representatives of the Office of the United Nations High Commissioner for Refugees (UNHCR) and the International Labour Organization (ILO) had also briefed the Working Group on the human rights situation in the reporting States.

15. The Working Group had also considered a paper presented to the tenth Meeting of Chairpersons of Human Rights Treaty Bodies by the Division for the Advancement of Women on integrating the gender perspective into the work of the United Nations human rights treaty bodies. Integration of the gender perspective formed the subject of a report submitted by the Secretary-General to the fifty-third session of the General Assembly. An advance copy had been made available to Committee members as part of their basic reference documentation. The Working Group proposed that the Committee should take note of the document and of the reference made therein to the relevant activities of the Committee, and that the Committee should continue to raise gender issues during the examination of State party reports. Furthermore, the Committee should continue to follow up on the work of the Committee on the Elimination of All Forms of Discrimination against Women (CEDAW), and to inform CEDAW that it had commissioned one of its own members, Ms. Medina Quiroga, to prepare a new draft general comment on article 3 of the Covenant.

16. The Working Group had not considered any communications under the Optional Protocol. However, since all the Rapporteurs for communications were currently in attendance, it might be appropriate to convene a meeting to adopt certain recommendations. For the time being, the Committee had before it 12 recommendations from the Working Group of the sixty-third session which the Committee had been unable to consider the previous July.

17. The CHAIRPERSON invited the Committee to consider the draft lists of issues drawn up by the Working Group, starting with Iceland (CCPR/C/64/Q/ICE/1(FUTURE), English only). She reminded the Committee that the third periodic report of Iceland dated from 1995 and some of the questions suggested by the Working Group might have lost their relevance owing to developments in the country since that date.

18. Mr. LALLAH said that the draft list was satisfactory, and any topics that were not covered could be dealt with orally by the Committee.

19. The list of issues to be taken up in connection with the third periodic report of Iceland (CCPR/C/64/Q/ICE/1(FUTURE) was adopted without change.

List of issues to be taken up in connection with the third periodic report of Belgium (CCPR/C/64/Q/BEL/1(FUTURE) - English only)

Paragraphs 1 and 2

20. Paragraphs 1 and 2 were adopted.

Paragraph 3

21. Mr. KLEIN proposed the insertion of a new subparagraph (f) requesting information on guarantees of judicial independence, bearing in mind the impaired functioning of the Belgian judicial system in recent years and the repercussions which those problems must have had on the independence of judges.

22. The proposal made by Mr. Klein was adopted.

Paragraphs 4 and 5

23. Paragraphs 4 and 5 were adopted.

Paragraph 6

24. Mr. YALDEN proposed the insertion of a question on discrimination against certain minorities, specifically against aliens living in Belgium. According to information received from various sources, such discrimination did exist, yet the Belgian report (CCPR/C/94/Add.3) made no mention of the fact. It would therefore be useful to seek some clarification. Accordingly, paragraph 6 should refer equally to the application of articles 27 and 26 of the Covenant.

25. Ms. EVATT said that the question contained in subparagraph (a) was too broad in scope and should be narrowed down along the lines suggested by Mr. Yalden.

26. Ms. MEDINA QUIROGA proposed the insertion of a question on the de facto status of women in Belgium. The report mentioned a host of provisions designed to safeguard the rights of women, but nothing about the enforcement of such provisions in practice.

27. Mr. ZAKHIA said that he supported the proposal made by Ms. Medina Quiroga, taking into account the fact that there existed in Western Europe a number of practices comparable to slavery which took advantage of women from Eastern countries. The Committee should perhaps inquire whether Belgium was affected by such practices.

28. The CHAIRPERSON said she took it that the Committee wished to recast paragraph 6 along the lines suggested by Mr. Yalden and Ms. Medina Quiroga, it being understood that the title would refer to articles 3, 26 and 27 of the Covenant.

29. It was so decided.

30. The list of issues to be taken up in connection with the third periodic report of Belgium (CCPR/C/64/Q/BEL/1(FUTURE), as orally amended, was adopted. List of issues to be taken up in connection with the consideration of the fourth periodic report of Japan (CCPR/C/64/Q/JAP/1(FUTURE))

Paragraph 1

31. Paragraph 1 was adopted.

Paragraph 2

32. Ms. MEDINA QUIROGA said that the issue of domestic violence, on which the Committee had received a considerable amount of information, should be raised in paragraph 2, for example in the form of a question on the legal rules and jurisprudence, applicable to domestic violence and particularly to rape.

33. Mr. LALLAH proposed that such a question should be contained in subparagraph (a), the two other subparagraphs to be renumbered accordingly.

34. The CHAIRPERSON suggested that former subparagraph (a) should become subparagraph (c).

35. Mr. KRETZMER said that the wording "Is it correct that" introducing the second question in subparagraph (b) was not in keeping with the style habitually used by the Committee. The question should therefore be amended to read: "Do children of Korean origin have equal access to higher education?".

36. Paragraph 2, as orally amended, was adopted.

Paragraph 3

37. After a discussion of the expression "reasonable discrimination" in subparagraph (a), in which Mr. LALLAH, the CHAIRPERSON, Mr. YALDEN, Mr. BHAGWATI and Lord COLVILLE took part, Mr. BUERGENTHAL proposed the insertion immediately afterwards of the words "mentioned in the report (para. 199)".

38. Mr. KRETZMER proposed that the first question in subparagraph (d) should be amended to read: "In accordance with article 900 (4) of the Civil Code, is the right to inheritance of a child born out of wedlock half that of a child born within marriage?".

39. The CHAIRPERSON said she thought that the title of paragraph 3 was perhaps somewhat abrupt.

40. Mr. KLEIN said that a more appropriate title might be "Prohibition of discrimination".

41. Paragraph 3, as orally amended, was adopted.

Paragraph 4

42. Paragraph 4 was adopted.

Paragraph 5

43. Ms. EVATT said that the issue of "comfort women" was certainly relevant, but there was a more urgent problem, namely, trafficking in women and forced prostitution. The Committee should therefore add a question about the measures which the Japanese Government had taken to prevent trafficking in women and forced prostitution.

44. Lord COLVILLE, supported by Mr. BHAGWATI, said that the issue of "comfort women" was still relevant and should be kept on the list of issues. At the same time, Ms. Evatt's proposal should find a place in the paragraph.

45. Mr. PRADO VALLEJO said that the Japanese Government had recently made a public apology to the Korean women and, through them, to the entire Korean nation, and that showed that the issue was not only relevant, but also very serious.

46. Mr. KLEIN said that, even acknowledging the relevancy of the issue, it could be argued that, by reason of the time that had elapsed, the matter did not come under the jurisdiction of the Covenant. It would therefore be more advisable to begin the paragraph with the question suggested by Ms. Evatt and then mention the "comfort women".

47. Ms. MEDINA QUIROGA said that, in her view, the question on the sexual exploitation of children contained in paragraph 9 (c) should be moved to paragraph 5.

48. The CHAIRPERSON suggested that paragraph 5 should be redrafted and divided into three subparagraphs. Subparagraph (a) would take up the question currently asked in paragraph 9 (c); subparagraph (b) would relate to trafficking in women and forced prostitution; and subparagraph (c) would deal with the "comfort women".

49. Paragraph 5, as orally amended, was adopted.

Paragraph 6

50. The CHAIRPERSON reminded the Committee that it had already singled out the "substitute prison system" for particularly harsh criticism, and the Committee's views on the matter had even been the subject of press reports. It would therefore be advisable to put subparagraph (d) immediately after subparagraph (a), thereby downgrading the importance of subparagraphs (b) and (c).

51. Mr. BHAGWATI said that he shared the Chairperson's view and further proposed the deletion of the first question in subparagraph (b).

52. Paragraph 6, as orally amended, was adopted.

Paragraph 7

53. Paragraph 7 was adopted.

Paragraph 8

54. Mr. KRETZMER proposed that the first question in subparagraph (c) should be amended to read: "Do government employees, including public school teachers, have the right to strike?".

55. Paragraph 8, as orally amended, was adopted.

Paragraph 9

56. Mr. BHAGWATI and Mr. PRADO VALLEJO said that the last two sentences of subparagraph (a) should be recast as questions.

57. Ms. MEDINA QUIROGA said that, in the place of subparagraph (c), which had been moved to paragraph 5, a question could be included on the nature of the legal measures and practices which the Japanese Government had taken to combat child pornography.

58. Paragraph 9, as orally amended, was adopted.

Paragraph 10

59. After a discussion involving Mr. KLEIN, Mr. KRETZMER, Mr. ZAKHIA, Lord COLVILLE and Mr. LALLAH on the need to refer to the concept of non-discrimination in connection with the right of every person to enter his own country, the CHAIRPERSON said that the first section of paragraph 10 (a) would be amended to read: "Guaranteeing that these persons are not discriminated against when re-entering Japan or being granted Japanese citizenship?".

60. Mr. BUERGENTHAL proposed that subparagraph (a) should be amended to read: "Further to questions asked during the examination of the third periodic report concerning the fact that a large population of persons of Korean origin is resident in Japan, what provision is made for:"

61. The CHAIRPERSON suggested that the second section of paragraph 10 (a) should be amended to read: "Granting them the rights guaranteed to ethnic, religious or linguistic minorities under article 27 of the Covenant?".

62. Mr. KLEIN proposed that the title of paragraph 10 should be amended to read: "Non-discrimination and the rights of minorities (arts. 26 and 27)".

63. Paragraph 10, as orally amended, was adopted.

64. The draft list of issues to be taken up in connection with the fourth periodic report of Japan (CCPR/C/64/Q/JAP/1(FUTURE)), as orally amended, was adopted.

List of issues to be taken up in connection with the initial report of Armenia (CCPR/C/64/Q/ARM/1(FUTURE))

Paragraph 1

65. Paragraph 1 was adopted.

Paragraph 2

66. The CHAIRPERSON suggested that the title of paragraph 2 should read "State of emergency".

67. Paragraph 2, as orally amended, was adopted.

Paragraph 3

68. The CHAIRPERSON said that paragraph 3 would be incorporated into paragraph 1 (art. 2 of the Covenant).

Paragraphs 4 and 5

69. After a discussion in which the CHAIRPERSON, Mr. EL SHAFEI, Mr. ZAKHIA and Mr. LALLAH took part, it was proposed that paragraphs 4 and 5 should be deleted on the grounds of excessive vagueness.

70. Paragraphs 4 and 5 were deleted.

Paragraphs 6 and 7

71. Paragraphs 6 and 7 were adopted.

Paragraph 8

72. Ms. MEDINA QUIROGA said that specific information should be requested on violence against women in the family, and not on violence in general.

Paragraphs 9 to 14

73. Paragraphs 9 to 14 were adopted.

74. Ms. EVATT said that she wondered why the Working Group had thought it unnecessary to include any questions on the application of article 26 of the Covenant in the list of issues. The State party should be asked whether it had taken any specific legislative measures to prevent all forms of discrimination, particularly against women and minorities, since the initial report was not very forthcoming on the issue.

75. Mr. KLEIN said that he was surprised that the list of issues contained no questions on the implementation of article 27 of the Covenant. That was another matter on which the report was largely silent, and the Committee could not disregard the repercussions which the Nagorny Karabakh conflict had had for the various ethnic, national and religious minorities living in Armenia.

76. Mr. YALDEN said that he endorsed the comments made by Ms. Evatt and Mr. Klein. A specific question should be included on the right of minorities to receive education in their own language.

77. The CHAIRPERSON said that a new paragraph 15 would be added on specific measures to prevent discrimination, and a new paragraph 16 would be inserted on the situation with regard to the rights of minorities, especially their right to receive education in their own language.

78. New paragraphs 15 and 16 were adopted, subject to the final draft to be prepared by the secretariat.

Paragraph 15

79. Paragraph 15 (new para. 17) was adopted.

80. The draft list of issues to be taken up in connection with the initial report of Armenia (CCPR/C/64/Q/ARM/1(FUTURE)), as orally amended, was adopted.

Draft list of issues to be taken up in connection with the third periodic report of the Libyan Arab Jamahiriya (CCPR/C/64/Q/LIB/1(FUTURE))

81. Mr. KRETZMER said that, in view of the gravity of the issues involved, the alarming questions contained in paragraphs 2, 3, 4 and 5 of the draft list should take precedence over the questions contained in paragraph 1 on the status of the Covenant.

82. The CHAIRPERSON said that the status of the Covenant was by no means a secondary consideration. On the contrary, it was the precondition for a number of the concerns raised by the Committee and it would be as well to clarify that fundamental issue before addressing more specific concerns.

83. Mr. EL SHAFEI said that he endorsed the Chairperson's opinion, explaining that the third periodic report of the Libyan Arab Jamahiriya contained a description of entirely new constitutional and legal rules. That was why the Working Group had thought that the status of the Covenant should be dealt with as a matter of priority before embarking on the consideration of the constitutional and legal provisions in force in the State party.

Paragraph 1

84. Paragraph 1 was adopted.

Paragraphs 2 to 6

85. Mr. KLEIN proposed that paragraphs 2, 3, 4 and 6, all of which dealt broadly with the application of articles 6 and 7 of the Covenant, should be merged. Paragraph 5, which dealt with the application of articles 9 and 10, could be left as it was.

86. Paragraphs 2 to 6 were adopted, subject to the changes proposed by Mr. Klein.

Paragraph 7

87. Paragraph 7 was adopted.

Paragraph 8

88. Ms. EVATT suggested that subparagraph (a) should refer to measures to eliminate discrimination against women in the area of marriage rather than the family, and that some reference should also be made to women's access to education. A new subparagraph (c) should ask what measures the State party had taken to combat domestic violence against women.

89. Mr. YALDEN said that he endorsed the proposals made by Ms. Evatt.

90. Paragraph 8, as orally amended, was adopted.

Paragraphs 9 to 15

91. Paragraphs 9 to 15 were adopted.

Paragraphs 16, 17 and 18

92. Mr. KLEIN said that paragraph 18 should come before paragraphs 16 and 17.

93. Paragraphs 16, 17 and 18 were adopted, subject to the changes proposed by Mr. Klein.

94. The draft list of issues to be taken up in connection with the third periodic report of the Libyan Arab Jamahiriya (CCPR/C/64/O/LIB/1(FUTURE)), as orally amended, were adopted.

Draft list of issues to be taken up in connection with the third periodic report of Austria (CCPR/C/64/Q/AUS/1(FUTURE))

Paragraph 1

95. Paragraph 1 was adopted.

Paragraph 2

96. The CHAIRPERSON said she thought that, following the consideration of the second periodic report of Austria in 1991, the State party had asked the Committee for an advisory opinion on the reservations which it had made when ratifying the Covenant. It was unclear whether or not the Committee had replied to that request. Checks would have to be made and paragraph 2 would have to be amended accordingly.

97. Lord COLVILLE said that the issue of reservations had been touched on when the Committee had formulated its concluding observations on the second periodic report of Austria. In the absence of fuller information, the Committee might wish to ask the State party whether it had given any further consideration to withdrawing its reservations since 1991.

98. Paragraph 2 was adopted, subject to any additional information that might be provided subsequently.

Paragraphs 3 to 6

99. Lord COLVILLE, speaking as a member of the pre-sessional Working Group, said that, in general, all the issues raised in paragraphs 3 to 6 of the draft list had been brought up during the consideration of the second periodic report of Austria. Those questions had not been answered, nor had they been dealt with in the third periodic report currently before the Committee. Moreover, in reply to a concern raised by Mr. Klein about the length of service of conscientious objectors (para. 6 (a)), the State party had made it clear during the consideration of the second periodic report that, under a new draft law, conscientious objectors would only serve two months longer than other conscripts. The Committee should therefore ask whether that draft law had been adopted and if not, why not.

100. Paragraphs 3 to 6 were adopted.

Paragraph 7

101. The CHAIRPERSON said that the title of the paragraph should be "Freedom of expression" rather than "Freedom of the press".

102. Paragraph 7, as orally amended, was adopted.

Paragraph 8

103. Mr. YALDEN proposed that the words "in English" should be deleted at the end of the second sentence in subparagraph (b).

104. Paragraph 8, as orally amended, was adopted.

105. The draft list of issues to be taken up in connection with the third periodic report of Austria (CCPR/C/64/Q/AUS/1(FUTURE)) was adopted.

The meeting rose at 1.05 p.m.